

REMARKS

Claims 1 through 19 are in the application, with Claims 1, 8, 11 and 15 being independent. The pending claims are subject to a restriction requirement. In particular, the Office Action groups the claims into Claims 1 through 10 and 15 through 19 (Group I) and Claims 11 through 14 (Group II). Election of Group I or Group II is required because the two Groups are alleged to be distinct.

Applicants provisionally elect Claims 1 through 10 and 15 through 19. Examination and allowance of the elected claims are respectfully requested.

This provisional election is made with traverse. Applicants request reconsideration of the restriction requirement in light of the following arguments, and pursuant to 37 CFR §1.143. As grounds for traversal, Applicants believe that the restriction requirement was based on an improper test for “distinctness”.

Restriction is proper only where an application contains claims directed to two or more independent or distinct inventions. As described in MPEP §806.05(f), the test for determining distinctness of claims directed to a product and to a process for making the product includes two prongs, and the claims may be deemed distinct if either prong is satisfied. The Office Action uses Form Paragraph 8.18 to set forth the test for distinctness. According to the Form Paragraph, the second prong is “that the product as claimed can be made by another and materially different process”. The claimed inventions were deemed to be distinct because they allegedly satisfied this second prong. In particular, the Office Action alleges that the device of the Group I claims can be made a process that includes the step of coupling a double data rate memory to the integrated circuit die.

Applicants submit that the above-mentioned second prong is not satisfied because any process for making the device of the Group I claims, even a process including the step suggested in the Office Action, would not be materially different from the Group II process claims. In fact, any process used to make the device of the Group I claims would necessarily include the process of the Group II claims. The Office Action’s suggestion of an additional step that may be used in the creation of the device of the Group I claims does not prove that the device can be made by a process that is materially different from the Group II processes.

Moreover, after reviewing §806.05(f), Applicants note that the first prong of the test for distinctness is “**that the process as claimed is not an obvious process of making the product**

and the process as claimed can be used to make other and different products (emphasis added)". Accordingly, both prongs of the test must be shown to prove distinctness. Applicants submit that the claimed products and processes also do not satisfy the first prong of the test for distinctness because the claimed processes are obvious processes of making the claimed products.

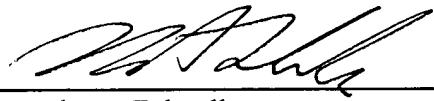
Since neither prong of the test for distinctness is satisfied, Applicants request withdrawal of the outstanding restriction requirement and examination of Claims 1 through 19 on the merits. In this regard, Claims 1 through 19 are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

CONCLUSION

If there remains any question regarding the present application, or if the Examiner has any suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact the undersigned via telephone at (203) 972-0049.

Respectfully submitted,

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Date



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